

Interim Procedures for Processing HBRRP Funded Projects in the FTIP/FSTIP (Effective 11/17/04)

The following procedures have been developed to help Division of Local Assistance, Division of Transportation Programming, and District Local Assistance and Programming staff process Highway Bridge Replacement and Rehabilitation Program (HBRRP) funded projects in the FTIP/FSTIP. The primary target audience of this document is Department staff.

Definitions:

FTIP/FSTIP:

The FTIP (sometimes referred to as the MTIP) is the Federal (metropolitan) Transportation Improvement Program. Each of the 18 MPOs in the State manage a FTIP for their Region. The Department's Office of Federal Transportation Management Program manages the rural non-MPO FTIP. Projects can be listed individually or as a grouped amount in the FTIP/FSTIP.

The FSTIP is the Federal Statewide Transportation Improvement Program. This program is assembled by Caltrans and incorporates the rural non-MPO FTIP along with the Metropolitan FTIPs.

The FTIP/FSTIP is updated and approved by FHWA and FTA every two years. Projects that receive funding are identified in the three-year plan within the FTIP/FSTIP. The three-year plan is commonly referred to as the triennial element of the FTIP/FSTIP. The FTIP/FSTIP also includes funds programmed in prior and future years. However, these funds are for information only and are not eligible for federal obligation.

FTIP/FSTIP Amendments:

These documents are used to modify the FTIP/FSTIP. The amendments can be either formal or administrative. FTIP amendments in metropolitan regions must be processed using procedures established by each MPO that meet federal regulations. FTIP amendments for rural regions are processed by the District Programming Offices in conjunction with the Office of Federal Transportation Management Program. The MPOs and the District Programming Offices determine whether formal or administrative amendments should be processed. The Office of Federal Transportation Management Program approves or recommends FHWA/FTA approval of the changes under the amendment for inclusion in the FSTIP.

District Local Assistance Engineer (DLAE)

The DLAE is responsible for maintaining the project cost and schedule information as provided by local agencies in the HBRRP FileMaker Pro Programming System. The DLAE is also responsible for knowing when a cost, scope, or schedule change may trigger an amendment to the FTIP/FSTIP. The District Programming Office or the MPO will determine what kind of amendment needs to be processed.

HBRRP FileMaker Pro Programming System:

This database is used by the Division of Local Assistance to assemble the program listings that are used by the MPOs and the District Programming Offices

(for rural regions) to develop the FTIP/FSTIP for HBRRP funded projects. The listings are also used to demonstrate statewide financial constraint of local assistance HBRRP funds required by federal regulations. DLAEs use the system to maintain project schedule data. Some Districts have full access rights to manage the project funding and scheduling. (This system is not available for use over the Internet by local agencies.)

Grouped Projects:

Projects that are grouped into a lump sum amount in the FTIP/FSTIP are not regionally significant, do not impact air quality models, and are not capacity increasing.

For Non-Attainment and Maintenance areas, project scopes are eligible for grouping unless lanes are added or unless an MPO decides the project is regionally significant enough to warrant individual listing.

For Attainment areas, project scopes are eligible for grouping unless a project has added lanes which cannot be considered auxiliary lanes (23 CFR 771.117 (c) & (d)) or until a project is determined not to be Cat Ex per 23 CFR 771.117.

Any questions about a project's eligibility for grouping in the FTIP/FSTIP should be discussed with the MPO or the District Programming Office for rural regions.

Individually Listed Projects:

These are projects that are regionally significant or have other reasons such that they must appear individually listed in the FTIP/FSTIP. For metropolitan regions, the MPO decides which projects must be individually listed in the FTIP. For rural regions, the District Programming Office decides which projects must be individually listed in the FSTIP.

The "Push" Flag:

A project with a "push" flag for a specific phase in the HBRRP FileMaker programming system means that the project was pushed out of the triennial FTIP/FSTIP due to financial constraint. When programming capacity is made available, these projects will have priority use of the funds relative to "pend" flagged projects.

The "Pend" Flag:

A project with a "pend" flag for a specific phase in the HBRRP FileMaker programming system means the project did not obligate the funds available in the year the funds were programmed. "Pend" flags are placed on projects when new project scheduling is available to the Department to reprogram the project in a current or future year of the FTIP/FSTIP. If scheduling data for old projects is not updated, the project funds remain in the "Prior" year column of the FTIP/FSTIP. Funds cannot be obligated/authorized on new phases if the project phases are programmed in a "prior" year. "Pend" flagged projects will not be automatically reprogrammed into the next available year because all available funds have been programmed.

Obligation:

An obligation of Federal funds through an E76 reserves funds at FHWA for the project. The E76 also “authorizes” the start of reimbursable work, however the Department cannot reimburse local agencies until a separate programmatic supplemental agreement is executed by the local agency and the Department. New phases of work can only be obligated/authorized in the federal fiscal year the funds are programmed in the FTIP/FSTIP or through procedures consistent with 23CFR450.332. These procedures are under development.

Advance Construction:

Advance Construction (AC) “authorizes” the start of reimbursable work but does not commit federal funding to the project. AC must be programmed in the FTIP/FSTIP if the federal funds are not programmed in the FTIP/FSTIP in the year that authorization is needed. AC does not need to be programmed in the FTIP/FSTIP if federal funds are programmed in the current year but no OA is available to obligate the federal funds. AC can be converted to federal funds if the federal funds are programmed in the FTIP/FSTIP in the year of conversion. However, when procedures developed consistent with 23CFR450.332 are implemented any project with funds programmed in the triennial element of the FTIP/FSTIP would be eligible for AC conversion, with Department approval.

Local Agency reimbursement occurs after AC conversion (funds are obligated) and a State/Local program supplemental agreement is executed.

Apportionment:

Apportionment is federal funds such as STP, CMAQ, and HBRRP. The E76 obligates apportionment and consumes obligational authority.

Obligational Authority (OA):

Congress places budgetary limits on how much the States may obligate federal apportionment (funds). The limit is typically about 90% of the annual apportionment.

1. Process for adding new projects to the HBRR Program:

- A. The local agency will submit an application, Exhibit 6-A in the HBRR Program Guidelines, to the DLAE.
- B. The DLAE reviews the application. If the DLAE has no delegation MOU, the DLAE forwards the application for HQ approval. (SLA review is optional, but recommended).
- C. If the application is approved by a DLAE with full delegation or by HQ, the candidate project is “Accepted” (approved) into the FileMaker Pro HBRRP programming system. A determination is made at this time that the project should be shown “grouped” or individually listed in the FTIP/FSTIP.
- D. PE may not be authorized until the new project has been amended into the FTIP/FSTIP. This applies to both “grouped” and individually listed projects in the FTIP/FSTIP.

2. Processing projects that are “pushed” outside the triennial program list due to financial constraint: (These projects are identified as “pushed” or “pend” in the HBRRP Filemaker programming system.)

- A. “Grouped” projects in the FTIP/FSTIP that were “pushed” outside the triennial HBRR Program, can only be brought back into the triennial program through the formal amendment process since no “grouped” HBRRP amounts were programmed in the 2004 FTIP/FSTIP. (Note that Seismic funds were programmed in the 2004 FTIP/FSTIP.) The trigger for initiating the amendment process will be the quarterly program update discussed in item 4 below.
- B. If a project (grouped or individually listed in the FTIP/FSTIP) is ready to advertise but has construction programmed outside the triennial element of the FTIP/FSTIP, construction funding cannot be obligated until programming capacity is made available from other projects that slip their schedule. (Projects that slip will be flagged as “pend.”) If programming capacity is found, an amendment to the FTIP/FSTIP will be needed. If no programming capacity is available, Advance Construction (AC) may be authorized provided the FTIP/FSTIP shows AC funding for the project in the current year.

3. Processing cost increases:

- A. Local agencies must submit an Exhibit 6-A (for scope change) or Exhibit 6-D for cost increases. Sufficient documentation must be provided to demonstrate the cost increase is appropriate and federally reimbursable per the HBRR Program Guidelines.
- B. “Post-programming adjustments.” If a project phase has been previously obligated/authorized, adding funds (of the same program) to the phase requires no FTIP/FSTIP action provided there is no change in project scope. If the cost increase has been reviewed for eligibility and the FileMaker Pro HBRRP system has been updated to reflect the current schedule and costs, the cost increase (E76) may be processed.

Where a scope or funding change triggers the reprogramming of a “grouped” project into an individually listed project in the FTIP/FSTIP, the cost increase or the authorization of a new phase of work (via the E76) may not be processed until an amendment to the FTIP/FSTIP is completed.

- C. If a project phase has NOT been previously obligated/authorized,
AND is programmed for the current (or future) year,
AND the project is included in a “grouped” item in the FTIP/FSTIP,
AND the “group” amount is being increased the lessor of 20% of the grouped amount or \$2 million,
an administrative amendment is required before funds can be obligated/authorized.
When Division of Local Assistance makes a new program list available, the amendment must be processed by the District Programming Office for rural regions and MPOs for metropolitan regions. In rural regions, this may take from two weeks to two months to process. In metropolitan regions, this process may take up to six months. (DLAEs should discuss this with their District Programming Office and MPOs since each MPO has a unique internal process.)
- D. If a project phase has NOT been previously obligated/authorized,

AND is programmed for the current or future year within the triennial element of the FTIP/FSTIP,

AND the project is individually listed in the FSTIP,

AND the project cost is being increased the lessor of 20% of the project cost or \$2 million,

an administrative amendment is required before funds can be obligated/authorized.

When Division of Local Assistance makes a new program list available, the amendment may be processed.

- E. For items 3C and 3D above, if the cost increase is greater than 20% of the prior project cost or greater than \$2 million, a formal amendment to the FTIP/FSTIP is required. This may take from three to six months to process.

4. Processing Project Substitutions:

A local agency may substitute a project that is programmed in the triennial element of the FTIP/FSTIP with another project subject to Department approval and the below:

- A. For substitute projects that will be included in the "Grouped" projects in the FTIP/FSTIP:
1. If the substitute project has construction programmed within the triennial element of the FTIP/FSTIP an amendment to the FTIP/FSTIP will not be needed provided that the grouped amount does not change. If the grouped amount does change, then item 3C above applies. (New procedures consistent with 23CFR450.332 will simplify this in the future.) No penalties will be applied to either project.
 2. If the substitute project does not have construction programmed within the triennial element of the FTIP/FSTIP, the project being replaced will be assigned a "pend" flag. An amendment to the FTIP/FSTIP must be processed if the substitute project is not currently in a detail listing supporting the costs associated with a group lump sum.
- B. For substitute projects that must be individually listed projects in the FTIP/FSTIP:
1. If the substitute project has construction programmed within the triennial element of the FTIP/FSTIP an amendment to the FTIP/FSTIP must be processed. (New procedures consistent with 23CFR450.332 will simplify this in the future.) No penalties will be applied to either project.
 2. If the substitute project does not have construction programmed within the triennial element of the FTIP/FSTIP, the project being replaced will be assigned a "pend" flag. An amendment to the FTIP/FSTIP must be processed.

5. Publishing "proposed" programming lists for amending the FTIP/FSTIP:

- A. The Division of Local Assistance will make available the proposed program listings on the local assistance web site (under Program Information; FSTIP Listings). The next list should be available in early November of 2004. Thereafter, the list will be made available quarterly starting the 3rd week of January, April, July, and October. Surveys of

local agencies will be conducted in October (for the January listing) or on an as needed basis.

- B. When new program listings are posted on the local assistance web site, Division of Local Assistance will notify the Office of Federal Transportation Management Program and the DLAEs. The Office of Federal Transportation Management Program will notify the MPOs and RTPAs that revised program lists are available. .
- C. Each revised program list will be financially constrained each year of the triennial element of the FTIP/FSTIP to meet federal requirements. The program will be based on anticipated funds over a ten year period to ensure that funds will be available for all projects.
- D. “Grouped” program amounts incorporate HBRRP funds for seismic projects eligible for grouping in the FTIP/FSTIP.

6. Questions and answers from District Local Assistance Engineers:

- A. What happens if a project is ready for authorization, but the dollars and phase are not programmed in the FSTIP?**

The project may not be authorized unless either the federal funds or Advance Construction (AC) are programmed in the current year of the FTIP/FSTIP. An amendment to the FTIP/FSTIP is needed after item 5 above is completed. For grouped projects see item 2, above.

- B. What happens if a project has federal dollars programmed in the FTIP/FSTIP, but the funds were not obligated in the federal fiscal year programmed?**

The funding for the project is lost until the FTIP/FSTIP is amended. Each of the three years of the FTIP/FSTIP is fully programmed so the project can’t roll into a future year without impacting the funding of other projects statewide. Reprogramming is accomplished through an amendment AFTER item 5 above is completed.

Alternatively, when procedures consistent with 23CFR450.332 are implemented, any project within the triennial element of the FTIP/FSTIP may have funds obligated after June 1st, each year. However, funding cannot be guaranteed. See Chapter 2, Local Assistance Program Guidelines for detailed information regarding Obligational Authority redistribution.

- C. Can a slush fund be established in the FTIP/FSTIP to fund cost increases and/or regional bridge programs?**

No. Federal regulations require that “grouped” amounts have specific project lists that are used to build the “grouped” amounts in the FTIP/FSTIP. The funding amounts in the FTIP/FSTIP must tie back to the detail project costs to demonstrate financial constraint.

- D. What assurance does a local agency have if they decide to AC their project that they will have their AC converted to federal funds according to the June 1st statewide OA redistribution process? (Assume that the federal funds are programmed within the**

triennial element of FTIP/FSTIP. Note that AC must also be programmed in the FTIP/FSTIP in the year AC is requested.)

There is no guarantee that OA will be available for AC conversion each June 1st. However, historically, there has always been plenty of OA available to complete the conversion, if needed.

E. Why is AC a useful tool to fund projects?

1. Construction may be authorized even though federal funds can not be obligated. AC authorization allows for future reimbursement by FHWA, when federal funds become available.
2. Projects that have AC authorization that have federal funds programmed beyond the triennial element of the FTIP/FSTIP cycle will be a priority for amending the FTIP/FSTIP per item 5 above.
3. Projects that have AC authorization and have federal funds programmed in the current year of the FTIP/FSTIP will have priority on June 1st for AC conversion to federal funds. See Chapter 02, Local Assistance Program Guidelines for Statewide OA redistribution process. However, when procedures developed consistent with 23CFR450.332 are implemented any project with funds programmed in the triennial element of the FTIP/FSTIP would be eligible for AC conversion.

F. What happens if the environmental document will be 3 years old, or resource agency permits will expire prior to the federal funds being programmed within the triennial FSTIP for construction on a project?

These items may need to be updated prior to construction authorization. Note that NEPA clearance may be obtained as long as all project funding is shown in the region's 20 year TIP. If HBRRP funding is shown in the "beyond" column, then this requirement is met.

G. What happens if "pushing" a project out for programming purposes causes the project to exceed FHWA's 10-year rule? (See Section 6.5.4 of the HBRRP Guidelines.)

As long as the Department has evidence that the local agency is developing the project (not stalling due to lack of staff or local match), the Department will grant a time extension as discussed in Section 6.5.4 of the HBRR Program Guidelines.

H. For the "grouped" listed projects in the FTIP/FSTIP, who is responsible for tracking the balance on the "grouped" amount as obligations are processed?

As long as obligations are not processed for new phases of work that have "push" or "pend" flags in the HBRR FileMaker Pro programming database and as long as the funding amounts shown in the database are not exceeded, the grouped amounts will not be exceeded. The DLAEs and HQ Area Engineers are responsible for enforcing this.

I. What should a local agency do if their required match to the Federal HBRRP funds is programmed in the STIP for a specific fiscal year, or the project has other funds

(RSTP or CMAQ) programmed for the larger project, but the HBRRP funds have been pushed out beyond the triennial FSTIP cycle?

If the new survey being conducted in August of 2004 does not provide realistic scheduling for HBRRP projects statewide the Department will still be challenged with identifying which projects are the “real” projects that will be delivered. (Local assistance delivery on the HBRRP is typically \$90 million out of an available \$175 million so there should be plenty of funds for all projects.)

It is recommended that the local agency keep the project on track assuming HBRRP funding will be made available when the PS&E is ready to advertise. If for some reason funding has not been restored to the project in the current triennial cycle of the FSTIP/FSTIP AND the project is ready to advertise, the DLAE will need to work with HQ Program Management to develop options. (OA may need to be borrowed from other programs or the DLAE may know of projects that will not be delivered yet are consuming programming capacity.)

- J. What happens if an agency has a project programmed for funding in a specific fiscal year, but they won’t be ready to obligate the funds until the later part of the federal fiscal year (i.e. July/August)? Would the OA be lost as part of the “pooling” of OA for use on other projects that have AC or on projects that are “ready to go”?**

Historically, there has always been plenty of OA for HBRRP projects late into the federal fiscal year. However, the Department cannot guarantee funding after the June 1st OA redistribution as detailed in Chapter 2 of the Local Assistance Program Guidelines.

- K. Why are FTIP/FSTIP “groupings” useful?**

New projects can be added into the “grouped listing” using administrative amendments as long as the revised group amount is within the limits discussed in item 3C above.

- L. How can a project programmed in the 2nd or 3rd year of the triennial FTIP/FSTIP be advanced to the current year?**

Right now administrative amendments are required. However, the Department is developing procedures consistent with 23CFR450.332 that could simplify this effort.

- M. If a project that is authorized/obligated for construction comes in with the low bid that is greater than the amount obligated how is the project cost increase processed?**

See items 3A and 3B above.

- N. Can HBRRP funds be programmed on a regional basis rather than a project basis?**

Federal and State law require the Department to program HBRRP funds at the project level statewide taking into account public safety in determining which projects receive HBRRP funds. Historically, since delivery is well below available funds, prioritizing the projects was not a critical issue. Typical delivery is about \$90 million out of \$175 million available.

- O. References:**

23USC144(d):

“Whenever any State or States make application to the Secretary for assistance in replacing or rehabilitating a highway bridge which the priority system established under subsection (b) and (c) of this section shows to be eligible...”

For Rural regions, 23CFR450.222(c):

Outside metropolitan planning areas, transportation projects undertaken on the National Highway System with title 23 funds and under the bridge and Interstate maintenance programs shall be selected by the State in consultation with the affected local officials.

For Metropolitan regions including within Transportation Management Areas (TMA):
23CFR450.332(a) and (b):

“In areas designated as TMAs where § 450.332(c) does not apply, all title 23 and Federal Transit Act funded projects, except projects on the NHS and projects funded under the bridge, interstate maintenance, and Federal Lands Highways programs, shall be selected by the MPO in consultation with the State and transit operator from the approved metropolitan TIP and in accordance with the priorities in the approved metropolitan TIP. Projects on the NHS, and projects funded under the bridge and Interstate maintenance programs shall be selected by the State in cooperation with the MPO, from the approved metropolitan TIP.”